
1993 Wis Eth Bd 5
IMPROPER USE OF OFFICE; INFLUENCING OFFICIAL JUDGMENT;
LEGISLATORS; REPRESENTATION OF CLIENTS.

A legislator should not accept payment for consulting work if the legislator's firm is being retained because he or she holds a position as a legislator, as opposed to simply having desirable political experience and insight. §§ 19.45(2) and 19.46(1)(b), *Wisconsin Statutes*.*

Second, a legislator should not accept payments for consulting work if that employment could reasonably be expected to influence the legislator's official judgment or actions. § 19.45(3), *Wisconsin Statutes*. A legislator's acceptance of payments from an organization with a substantial and demonstrated interest in issues likely to be addressed by Wisconsin's Legislature could reasonably be expected to affect his or her official judgment and actions in a manner sympathetic to the client. The standard imposed by the statute is an objective one. It is not enough that a legislator and his or her client are philosophically aligned. Rather, the question is whether a reasonable person would expect that the legislator's employment would influence his or her official judgment. For this reason, the Board recommends that a legislator not accept payments for offering consultation, advice, or strategy on issues if there is a reasonable possibility that they will be addressed by Wisconsin's Legislature. OEB 93-5 (February 10, 1993)

Facts

[1] This opinion is based upon these understandings:

- a. You are a member of the state Legislature and a state public official.

* Section 19.45(2) provides:

19.45 Standards of conduct; state public officials.

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

Section 19.46(1)(b) provides:

19.46 Conflict of Interest Prohibited; Exception. (1) Except in accordance with the board's advice under sub. (2) and except as otherwise provided in sub. (3), no state public official may:

(b) Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

- b. You are employed with a firm in a position that includes consulting work.
- c. The firm may be retained to provide consulting services to a federal political action committee not associated with any lobbying organization.
- d. The political action committee is an issue-oriented committee to promote partisan reform ideas in Wisconsin and elsewhere.

Question

[2] The Ethics Board understands your question to be:

What restrictions, if any, does the Ethics Code impose on your accepting payments for providing consulting services to a political action committee in the circumstances you have described?

Discussion and Advice

[3] You should not accept payment for consulting work if your firm is being retained because you hold a position as a legislator, as opposed to your simply having desirable political experience and insight. §§ 19.45(2) and 19.46(1)(b), *Wisconsin Statutes*.*

[4] Second, you should not accept payments for consulting work if that employment could reasonably be expected to influence your official judgment or actions. § 19.45(3), *Wisconsin Statutes*. Your acceptance of payments from an organization with a substantial and demonstrated interest in issues likely to be addressed by Wisconsin's Legislature could reasonably be expected to affect your official judgment and actions in a manner sympathetic to your

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client. The standard imposed by the statute is an objective one. It is not enough that you and your client are philosophically aligned. Rather, the question is whether a reasonable person would expect that your employment would influence your official judgment. For this reason, we recommend that you not accept payments for offering consultation, advice, or strategy on issues if there is a reasonable possibility that they will be addressed by Wisconsin's Legislature.